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Extreme poverty and human rights

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on extreme poverty and human rights, Philip Alston, submitted in accordance with Human Rights Council resolution 26/3.

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Report of the Special Rapporteur on extreme poverty and human rights

Summary

The present report focuses on the implementation of the right to social protection through the adoption by all States of social protection floors. The very widely endorsed Social Protection Floor Initiative aims to guarantee basic income security and access to essential social services for all. In the report, the Special Rapporteur reviews the reasons for the marginality of social protection during most of the twentieth century and then traces the evolution of the concept of social protection floors and notes its defining characteristics. While international organizations have played an important role, social protection initiatives by countries in the global South have also been indispensable catalysts.

In the report, the Special Rapporteur examines the key challenges that must be addressed if the initiative is to be successful. They include overcoming the ambivalence of key international actors, including especially the World Bank, towards the concept; the lack of sufficient legal recognition of social protection as a human right; and misgivings as to the affordability of social protection floors. He argues that the draft produced by the Open Working Group of the General Assembly on Sustainable Development Goals on 19 July 2014 is a considerable disappointment in terms of its approach to both human rights and social protection.

In the report, the Special Rapporteur calls for civil society groups working in the human rights field to engage with the Initiative in a way that has not happened to date and for the World Bank to adopt a new approach that is genuinely supportive of it. He also suggests greater engagement with the Initiative by both the Committee on Economic, Social and Cultural Rights and the special procedures mandate holders. He concludes that universal promotion of the right to social protection, through the adoption of social protection floors and closely related initiatives taken within an overall human rights-based framework, should become a central goal for all actors within the human rights and development contexts. It should be seen not only as an initiative designed to promote economic, social and cultural rights, but also one that has great potential to improve the enjoyment of civil and political rights by hundreds of millions of people worldwide.

I. Introduction

1. The present report is submitted in accordance with Human Rights Council resolution 26/3 and is the first report submitted by the new mandate holder, Philip Alston, who replaced Magdalena Sepúlveda Carmona as the mandate holder on 2 June 2014. In the report the Special Rapporteur looks at social protection floors, with particular emphasis on the relevance of the Social Protection Floor Initiative to the post-2015 development agenda.

2. Implementation of the right to social protection through the adoption by all States of social protection floors is by far the most promising human rights-inspired approach to the global elimination of extreme poverty. In essence, those floors are guarantees of basic income security and access to essential social services for the whole population. No other operational concept has anything like the same potential to ensure that the poorest 15 to 20 per cent of the world's people enjoy at least minimum levels of economic, social and cultural rights.

3. Observers who are not familiar with the origins of the Social Protection Floor Initiative, or with the ways in which the concept has developed, might be tempted to assume that it is just another example of pouring old wine into new bottles in order to package the right to social security in a more attractive way. But the social protect floor is novel and significant for several reasons. First, it achieves a synthesis which gives operational significance to the rights to social security and an adequate standard of living, which had previously languished within the human rights framework. Second, rather than being foisted upon reluctant or resistant States, it reflects a process of reflexive learning between the international policy community and actual practice emerging in and from the global South. Third, instead of assuming a gap or even an incompatibility between human rights norms and economic realities, social protection as a concept has been carefully designed both to take account of affordability and to acknowledge the importance of promoting economic productivity. Fourth, to a greater extent than is the case with any other social human right, the initiative has come largely from outside the human rights field, bringing with it the prospect that a far more broad-based coalition of actors can be mobilized to promote implementation.

A. Social protection at an uncertain crossroads

4. In resolution 25/11, the Human Rights Council acknowledged the importance of the joint United Nations Social Protection Floor Initiative for the realization of economic, social and cultural rights and referred specifically to International Labour Organization (ILO) recommendation No. 202 (2012) concerning national floors of social protection, the instrument that provides the most detailed and systematic elaboration of the concept. The Initiative has been promoted in particular by ILO and the United Nations, along with a wide range of other international agencies, supported by a multitude of international forums and embraced by a strong coalition of civil society groups, especially in the development and social se[illegible]ce sectors. In a statement made on 21 May 2013, a group of 17 special procedures mandate holders recommended that the post-2015 development agenda being elaborated under the auspices of the General Assembly should include a goal on social protection floors, explicitly referencing the right to social security and a human rights-based approach to social protection.

5. Despite that impressive array of support, the Initiative remains today at an uncertain crossroads. Definitions accorded to the concept vary widely, the domestic legal status of the guarantees remains uncertain, its place within the human rights framework is contested and key international actors remain ambivalent in practice, even if not in theory. That is reflected in the current draft of the report of the Open Working Group on Sustainable Development Goals of 19 July 2014, in which the Group endorses a version of the concept that is significantly watered down compared to that advocated by human rights proponents.

6. The essential message of the present report is that universal promotion of the right to social protection, through the adoption of social protection floors and closely related initiatives taken within an overall human rights-based framework, should become a central goal for all actors within the human rights and development contexts. It should be seen not only as an initiative designed to promote economic, social and cultural rights, but also one that has great potential to improve the enjoyment of civil and political rights by hundreds of millions of people worldwide.

B. Extent of the current challenge

7. Despite much-heralded recent achievements in reducing the incidence of extreme poverty, especially in some parts of the world, the magnitude of the challenge remains staggering. According to the United Nations Development Programme *Human Development Report 2014*, over 2.2 billion people, more than 15 per cent of the world's population, "are either near or living in multidimensional poverty." In contrast, in the *Millennium Development Goals Report 2014* "remarkable progress" is hailed, reflecting the fact that between 1990 and 2010 the absolute number of people living in extreme poverty decreased from 1.9 billion to 1.2 billion. Statistics, of course, are what we choose to make of them. Much has been written about how the extreme poverty standard of the World Bank, currently measured as people living on $1.25 a day or less and preferred by those seeking to demonstrate progress towards meeting the Millennium Development Goals, is inadequate for capturing the realities of poverty on the ground. In the first place, the choice of a 1990 baseline for a goal set in 2000 is rather like vowing to eliminate torture and citing the incidence of usage of the rack as the main indicator of success.[1] In explaining why that benchmark dramatically underestimates the actual situation, ATD/Fourth World notes that the measure is too low as it excludes by definition all poverty in developed countries; income surveys rely on often inadequate and flawed data; and household surveys and the like fail to capture many of the very poorest.[2]

8. To overcome those problems, for the *Human Development Report* UNDP uses the Multidimensional Poverty Index, which goes beyond a single indicator of income to reflect multiple deprivations at the household level, including in health, schooling and living conditions.[3] Other United Nations agencies, many scholars and

[1] On the origins of the 1990 baseline, see Mac Darrow, "The Millennium Development Goals: milestones or millstones? Human rights priorities for the post-2015 development agenda", *Yale Human Rights and Development Law Journal*, vol. 15, No. 1 (2012).

[2] ATD/Fourth World, *Challenge 2015: Towards Sustainable Development that Leaves No One Behind* (Paris, Éditions Quart Monde, 2014).

[3] In the *Human Development Report 2014* it is claimed that the "most successful antipoverty and human development initiatives to date have taken a multidimensional approach".

leading non-governmental groups, as well as the Guiding Principles on Extreme Poverty and Human Rights, all opt for the multidimensional approach, which is the one adopted by the Special Rapporteur.

9. However, for the purposes of the present report it is sufficient to focus on the extent to which social protection is currently available worldwide. The most recent analysis of this is contained in an ILO publication, which concludes that 73 per cent of the global population is either not covered at all or is only partially covered by comprehensive social security systems. In following a human life-cycle approach, the authors of the report notes that 75 countries have no child and family benefit programmes mandated by legislation and that the global average spending on such programmes is only 0.4 per cent of GDP. For working-age adults, the comparable figure is 2.3 per cent. While 28 per cent of workers worldwide are eligible for unemployment benefits under existing legislation, only 12 per cent of unemployed workers actually receive such benefits (ranging from 64 per cent in Western Europe to 3 per cent in the Middle East and Africa). Employment injury, disability and maternity benefits are also available on only a very limited basis globally. Forty-eight per cent of people over pensionable age do not receive old-age pensions and, even where some pensions are available, levels are often inadequate. Finally, 39 per cent of the world population lacks health coverage, a figure that rises to 90 per cent in low-income countries.[4]

10. Disaggregating those different elements of the right to social protection reveals clearly how inadequate existing arrangements are and how large a proportion of the global population is not accorded even basic levels of economic and social rights protection.

II. From neglect to centre stage

11. The significance for the human rights system of the emergence of the concept of a social protection floor, and its future prospects, can be fully appreciated only against the background of the history of related efforts during the second half of the twentieth century. The concept is widely recognized as having risen with "meteoric speed" on the international development agenda.[5]

A. Marginality of social protection during the twentieth century

12. Although a report as brief as this can only skim the historical surface, at least five factors ensured that social protection in general, and the right to social security in particular, were of marginal importance for most of the twentieth century. First, the artificial and in some respects arbitrary division of the concept of human rights into two different categories of rights governed by very different assumptions, condemned economic and social rights to second-class status for much of this period. Second, the often proclaimed interdependence and indivisibility of the two sets of rights resolutely failed to address in practice the fact that individuals living

[4] These statistics are all taken from ILO, *World Social Protection Report 2014/15: Building Economic Recovery, Inclusive Development and Social Justice* (Geneva, 2014).

[5] Arjan de Haan. "The rise of social protection in development: progress, pitfalls and politics", *European Journal of Development Research*, vol. 26, No. 3 (2014).

in extreme poverty were unable to realize effectively many of their civil and political rights. Third, the mistaken notion that civil and political rights are largely costless, while economic and social rights are inevitably extremely costly, was used to legitimize the assumption that social security was a quintessentially costly right and thus only really of relevance to rich countries. Fourth, where it was officially accepted, social security was largely conceptualized as a tool for protecting workers in the public sector and in the formal sector more generally. Thus only minimal efforts were made to develop a more inclusive notion that built upon both formal and informal structures and processes to ensure that all persons were covered by some type of security arrangement. Fifth, many of those problems were exacerbated by the impact of the cold war on the human rights framework. A sixth factor was the extent to which individual United Nations agencies claimed different issues as their own and sought to develop forms of exclusive jurisdictional competence. Under that scheme, social security "belonged" to ILO. The rest of the United Nations system thus more or less kept away from the issue, except in the most general terms. That also meant that, some official rhetoric notwithstanding, the United Nations human rights system developed in relative isolation from what should have been the closely related work of a number of the specialized agencies.

B. Emergence of the concept of social protection floors

13. The emergence of the Social Protection Floor Initiative at the international level has been well documented.[6] In telegraphic form, most analyses begin with the harsh adjustment policies associated with the "Washington Consensus" of the 1980s, the reaction to those policies by the United Nations Children's Fund (UNICEF) and other actors, the World Summit for Social Development in 1995, the poverty reduction strategies championed by the World Bank and the International Monetary Fund (IMF), starting in the late 1990s, and the focus on poverty in the Millennium Development Goals. Social security then began to re-emerge as a priority concern, thanks in large part to the engagement of ILO. It launched a global campaign on social security in 2003, followed by the World Commission on the Social Dimension of Globalization in 2004, along with a series of other steps endorsed by the International Labour Conference.

14. Ownership of the concept was subsequently expanded when the United Nations System Chief Executives Board for Coordination endorsed it as one of its responses to the financial crisis in 2008 and in 2010 the Social Protection Floor Advisory Group brought ILO together with the World Health Organization (WHO), with Michelle Bachelet, then Executive Director of the United Nations Entity for Gender Equality and the Empowerment of Women, as Chair. The resulting report in 2011 (commonly known as the Bachelet report)[7] did not add a great deal to earlier ILO iterations of the content, but was very important in broadening both the constituency and political support for the concept, thus facilitating its formal endorsement by the Summit of the Group of 20 in Cannes, France, in the same year. At the same time, the various regional groupings rallied around the concept, as

[6] See, for example, Bob Deacon, *Global Social Policy in the Making: The Foundations of the Social Protection Floor* (Bristol, United Kingdom, Policy Press, 2013) and Julie L. Drolet, *Social Protection and Social Development: International Initiatives* (Springer, 2014).

[7] ILO, Social Protection Floor for a Fair and Inclusive Globalization: Report of the Advisory Group (Geneva, 2011).

illustrated by its embrace by the African Union in the Khartoum Declaration on Social Policy Action towards Social Inclusion (2010), and a range of more specialist statements, such as the recommendations of the African Union expert consultation on children and social protection systems to the fourth session of the Conference of Ministers of Social Development in May 2014.[8] It is noteworthy that, despite reports addressing social protection floors by various special procedures mandate holders, the Human Rights Council did not formally address or endorse the concept until 2014.

15. While tracing the history of the evolution of the concept of social protection floors through the lens of international organizations is a common approach in the literature, it must be observed that it is both surprisingly ahistorical and gives insufficient weight to the political economy that facilitated the evolution of support for it.[9] It is ahistorical especially to the extent that it underestimates the gradual and cumulative ways in which national initiatives, especially in developing countries, created the conditions in which pioneering national programmes could emerge. Those programmes often ran in very different directions from the policies being advocated by the international community. Since the late 1990s, a diverse range of countries in the global South have developed innovative programmes for social protection, which look very different from the more traditional approaches developed in the North.

16. Important initiatives include Bolsa Familia and Brasil Sem Miséria in Brazil, Oportunidades in Mexico, Asignación Universal por Hijo para protección social in Argentina, a social transfer scheme in Zambia, the National Rural Employment Guarantee Scheme in India, the Productive Safety Nets programme in Ethiopia, a universal pension scheme in Namibia and the provision of universal access to basic health services in Thailand. The programme in Brazil has grown from covering 3.6 million families in 2003 to 13.8 million in 2012, while a solidarity-based pension system in Chile went from 560,000 beneficiaries in 2008 to 1.1 million in 2012. In China, the *Di bao* reforms aim to create social insurance and assistance programmes to protect the entire population against economic insecurity and physical infirmity.[10] Overall, there has, as the World Bank observes, been "an exponential growth in social safety nets, especially cash-based programs".[11]

17. Although social protection policies in Latin America still vary considerably, a recent study has identified several common policy characteristics within the region. They include: recognition of the importance of reducing inequalities and realizing social, economic and cultural rights; recognition of the role of the State in correcting market asymmetries; the need to increase and maintain social investment in response to economic crises; the adoption of comprehensive poverty reduction policies; and taking account of disparities based on gender, age and ethnicity.[12]

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[8] See African Union document CAMSD/EXP/3(IV) (2014).

[9] For an excellent synthesis and overview see Francois-Xavier Merrien, "Social protection as development policy: a new international agenda for action", *International Development Policy*, vol. 5, No. 1 (2013).

[10] See Liu Hong and Kristian Kongshøj, "China's welfare reform: an ambiguous road towards a social protection floor", *Global Social Policy*, published online 12 December 2013.

[11] World Bank, *The State of Social Safety Nets 2014* (Washington, D.C., 2014).

[12] See Simone Cecchini, "Social protection, poverty and inequality: a comparative perspective", *Journal of Southeast Asian Economies*, vol. 31, No. 1 (April 2014).

18. In addition to Latin America, where the most innovative and probably the most influential schemes have originated, both African and Asian States have made important progress. In Africa, social protection issues are said to "have gained unprecedented momentum",[13] with the number of countries in sub-Saharan Africa with some form of unconditional cash transfer system going from 21 in 2010 to 37 by 2013.[11] One problem is that some of those systems are very heavily dependent upon external donor financing, thus making them less secure.

19. There have also been many such initiatives in the Asia-Pacific region,[14] as illustrated by the declaration in October 2013 of the Association of Southeast Asian Nations on strengthening social protection that "everyone is entitled to equitable access to social protection, based on a rights-based, needs-based, life-cycle approach and covering essential services as needed". In the declaration member States also committed to strive to extend coverage, availability, quality, equitability and sustainability of social protection and gradually promote it, to ensure optimum benefits.

20. The significance of the fact that so many social protection initiatives have emanated from the South, and that social protection floors have gained such support in developing countries, is all the greater when seen against the earlier resistance by many of those countries to efforts that were considered to involve the undifferentiated and inappropriate transposition of Western approaches to social security.[15] South-South cooperation in this area thus bodes well for the future of the Social Protection Floor Initiative.

C. Defining social protection

21. The generic term "social protection" has been used to describe a wide range of past and present policy approaches. In recent years, however, the main debate has been between those who support what are termed "social safety net" approaches and those who seek "social inclusion" and acknowledge "social citizenship". The principal response of the World Bank to the backlash against the austerity and adjustment policies of the Washington Consensus was to advocate social safety nets. The concept of social risk management gained special prominence, both as a means to protect the basic livelihood of the most vulnerable, or those living in chronic poverty, and to promote better managed risk-taking in response to economic and other shocks. However, the safety net approach was also widely criticized for failing to devote enough attention to structural poverty and inequality, and for its emphasis on the narrow targeting of groups for assistance. In response, rights-based approaches were promoted, not only within the human rights community, but by a broader range of development scholars and institutions.[9] But the general debate is far from settled and critics argue that many of today's approaches to social

[13] Stephen Devereux and Melese Getu, eds., *Informal and Formal Social Protection Systems in Sub-Saharan Africa* (Addis Ababa, Organization for Social Science Research in Eastern and Southern Africa and Fountain Publishers, 2013).

[14] See, for example, United Nations Development Group, Asia-Pacific social protection issues brief (2014) and Asian Development Bank, *The Social Protection Index: Assessing Results for Asia and the Pacific* (Manila, 2013).

[15] Robert Cox, "Gramsci, hegemony and international relations: an essay in method", *Millennium — Journal of International Studies*, vol. 12, No. 2 (1983) and Bob Deacon, *Global Social Policy and Governance* (2007).

protection continue to show a "bias towards more ameliorative and less transformative approaches to social protection, which are likely to leave the underlying causes of injustice in place."[16]

22. Even within the same country, competing conceptions of social protection might coexist. In Mexico, for example, scholars have suggested that while approach of the federal Government emphasizes targeting and good behaviour by the beneficiaries in order for conditional cash transfers to occur, the policies adopted in the federal district of Mexico City attach greater importance to inclusiveness, democratic content and social citizenship.[17]

23. At the international level, definitional issues continue to be controversial, especially in terms of whether social protection floors should be seen as a matter of human rights and whether they should be universal and unconditional. Before examining those dimensions, it is appropriate to take note of the approach reflected in ILO recommendation No. 202. As the culmination of many initiatives, both within and well beyond the ILO context, it has become the principal benchmark against which social protection floors should be designed, implemented and evaluated. The main elements of recommendation No. 202 are as follows:

(a) The recommendation rests on a strong foundation of international human rights law, which is relatively unusual for ILO instruments. In addition to specific references to various provisions of the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, it calls upon States to respect "the rights and dignity of people covered by the social security guarantees";

(b) Social protection floors are nationally defined, in a participatory manner, and reflect national priorities while respecting principles such as non-discrimination, gender equality and social inclusion;

(c) Protection is to be universal, rather than selective and is to be aimed at "preventing or alleviating poverty, vulnerability and social exclusion";

(d) Social protection floors should include at least basic social security guarantees for health care and also for income security for children, older persons and those unable to work, in particular in cases of sickness, unemployment, maternity, and disability;

(e) The basic guarantees should be established by law;

(f) Implementation should be monitored regularly and periodically evaluated;

(g) While social protection floors should be financed by national resources, international support should be available when needed.

[16] Sam Hickey, "Relocating social protection within a radical project of social justice", *European Journal of Development Research*, vol. 26, No. 3 (2014).

[17] Lucy Luccisano and Laura Macdonald, "Mexico and social provision by the Federal Government and the Federal District: obstacles and openings to a social protection floor", *Global Social Policy*, published online 4 July 2014.

D. Universal health-care dimension

24. The health-care guarantees of social protection floors have been greatly reinforced by a separate but closely linked initiative emerging from WHO to promote universal health coverage.[18] That concept has been defined in a way that makes it directly compatible with and complementary to the Social Protection Floor Initiative[19] and was endorsed by the General Assembly in resolution 67/81. In elaborating on this concept, the World Health Assembly has consistently made reference to the right to health, underlined the centrality of universal health care in the post-2015 agenda and emphasized the "the importance of accountability through regular assessment of progress".[20]

III. Key challenges

A. Overcoming the ambivalence of key international actors

25. Scholars have argued that for both ILO and the World Bank, the social protection floor is closely linked to the objectives that inspired the drafters of the respective mandates they were given at the end of the Second World War. For the Bank, the Bretton Woods negotiations in 1944 are said to have been motivated in part by commitments to freedom from want and promoting social security,[21] while the Declaration of Philadelphia of 1944 committed ILO to contribute to the achievement of extended "social security measures to provide a basic income to all in need of such protection and comprehensive medical care". However, the harmony implied by this historical perspective is quickly dispelled by detailed accounts of competition and non-cooperation between the two agencies. Various authors have described how, over the past couple of decades, there has been a "fundamental clash of approaches, ideologies and policies" between the ILO Social Security Department (now the Social Protection Department) and the Social Protection and Labor Division of the World Bank. Those conflicts have played out especially "in the fields of pension policy, of safety net versus universal cash benefits policies, [and] of even the definitions and purposes of social protection".[22]

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[18] See Xenia Scheil-Adlung, "Revisiting policies to achieve progress towards universal health coverage in low-income countries: realizing the pay-offs of national social protection floors", *International Social Security Review*, vol. 66, No. 3-4 (July-December 2013).

[19] See World Health Assembly resolution WHA67.14, ninth preambular paragraph.

[20] See WHA67.14, paras. 8 and 9. See also the Recife Political Declaration on Human Resources for Health: renewed commitments towards universal health coverage WHO document EB134/55, annex.

[21] Eric Helleiner, "Back to the future? The social protection floor of Bretton Woods", *Global Social Policy*, published online 12 December 2014.

[22] Bob Deacon, "The social protection floor and global social governance: towards policy synergy and cooperation between international organizations", *International Social Security Review*, vol. 66, No. 3-4 (July-December 2013). See also Timo Voipio, *From Poverty Economics to Global Social Policy: A Sociology of Aid for Poverty Reduction* (Tampere, University of Eastern Finland, 2011).

26. The report of the Social Protection Floor Advisory Group was especially critical of the Bank's approach and its critiques are still largely pertinent today. In the report, the Advisory Group noted that:

> In the social safety net approach, social policies were considered as residual to economic development. The implementation of such measures was driven by the need to provide relief to the poor and vulnerable during structural reform by cushioning the effects of the structural adjustments and facilitating political support to them. These measures were generally temporary, fragmented and targeted to the poor and vulnerable in a needs-based framework.

27. In an effort to bridge the gap, the Advisory Group urged the Bank to cooperate with ILO and the United Nations on the Social Protection Floor Initiative. The Bank was initially responsive and its major strategy document in 2012 proclaimed an "emerging global consensus" in this area, noting that its "strategy and engagement" were consistent with the "core principles" of the Initiative.[23] Although that was considered to be a significant development, the strategy itself demonstrated rather little substantive engagement with the Initiative. In 2014, the Bank issued the first in what was described as a series of major reports on social safety nets, thus making clear where its future work would continue to focus.[11] The report appeared simultaneously with the new ILO flagship report on social protection floors and, while situating safety nets within what it calls the broader context of social protection, the word "floor" does not appear even once, let alone "social protection floor".

28. While the Bank has participated in the deliberations of the Social Protection Inter-Agency Cooperation Board, recent developments appear to confirm that it is doing so very largely on its own terms, built around risk management and safety nets, and remains reluctant to buy in to the Social Protection Floor Initiative in a meaningful way. Its response to that remark would doubtless be to point to the fact that 870 million of the 1.2 billion people living in extreme poverty, as defined by the Bank, are not covered even by safety nets.[11] Under those circumstances, surely it is only prudent to begin with minimum aspirations? However, the Initiative envisages a gradual ratcheting up of aspirations, rather than the immediate introduction of full-blown social protection floors in low- or medium-income countries.

29. The position of the Bank seems rather to be driven by its long-standing resistance to the notion that it can advocate respect for human rights without becoming "political"; its preference for formulae that can be overseen by economists and administrators, rather than empowering the population; a deep-seated resistance to universal coverage in the absence of a great many caveats or safeguards to prevent abuse; and an aversion to the sort of legal entrenchment of a right to social protection that would constrain the options of economic policymakers.

30. The consequences of that approach in relation to the Initiative are enormous. First, it means that complex systems for selectivity will trump aspirations to achieve universal coverage. Second, the level of protection that is set will remain extremely low. The Bank's own figures indicate that while the poorest 20 per cent of households

[23] *The World Bank 2012-2022 Social Protection and Labor Strategy: Resilience, Equity and Opportunity* (Washington, D.C., 2012).

account for 25 per cent of all spending on safety nets, the resulting transfers make up only 23 per cent of the income or consumption of a poor household. Third, social safety nets are generally not protected by law and the poorest are thus left highly vulnerable to changing policy winds. Fourth, the human rights dimension is effectively eliminated. Social protection remains a charitable undertaking, advocated for reasons of efficiency and productivity, and not a matter of right. The empowerment dimension is thus lost, as is the rest of the rights-based framework. Finally, over time, the Initiative will gradually be marginalized and its momentum destroyed. As noted below, especially for low-income countries, affordability is the crucial issue and the United Nations, along with agencies such as ILO, WHO and UNICEF, for all their eagerness to assist and advise, can only go so far in that regard. Ultimately, the World Bank and the IMF need to support proposals to create the fiscal space necessary for social protection floors to be adopted in many countries and if that support is absent, the overall initiative will be undermined.

31. It must also be acknowledged that even within the United Nations family, there are significant differences in approach. A recent report on social protection floors by the United Nations Development Group explicitly acknowledged such differences and sought to downplay the consequences. It began by acknowledging that social protection occupies different positions within United Nations organizations' mandates and agendas, resulting in "different working definitions and components" being used. But it went on to note, reassuringly and in terms similar to those used by the World Bank, that United Nations organizations nevertheless "have much in common in terms of the desired objectives, principles, and approaches to social protection".[24]

32. A good example of this is the approach adopted in the *Human Development Report 2014*. While the report focuses on the need to reduce vulnerability and build resilience, much of its thrust is to support universal social protection. Thus, it explicitly "calls for universal access to basic social services ... stronger social protection ... and a commitment to full employment ...". But while the Social Protection Floor Initiative is mentioned a couple of times, it is by no means central to the analysis. Even more significantly, the report avoids, to the extent possible, the use of the term "human rights". The first mention of the phrase is a quote from Pope Francis on page 14; the next is on page 74 in a reference to "women's human rights". Rather than using language that links in any way to specific human rights, or to obligations assumed by States, the report makes extensive use of generic terms that give the illusion of referring to human rights but are not in fact grounded in any particular content. Thus, there are references to "needs and rights", "rights and services", "interests and rights", "rights and choices", "basic rights", and "intrinsic rights". It is only in a final discussion, towards the end of the report, on "elements of a global social contract", that reference is made to various human rights treaties.

B. Ensuring the linkage between social protection and human rights

33. The Social Protection Floor Initiative is not merely relevant to human rights; it is firmly rooted within the rights framework. In its report, the Social Protection Floor Advisory Group described the basic concept as being anchored in shared principles of social justice and in the human rights to social security and to an

[24] United Nations Development Group Asia-Pacific, social protection issues brief.

adequate standard of living.[7] In terms of legal foundations, it added that: "The right of individuals to provision by way of social protection is articulated specifically in a number of international instruments, notably the Universal Declaration of Human Rights and the International Covenant on Economic, Cultural and Social Rights."[7] ILO recommendation No. 202 is very specific in "reaffirming that the right to social security is a human right" and in underscoring the relevance of articles 22 and 25 of the Declaration and articles 9, 11, and 12 of the Covenant.

A new human right?

34. The fact that none of these instruments refers per se to a "right to social protection" raises the question as to whether it should be considered an existing human right, or a new one. In the past, States have understandably been very sensitive about claims that new rights have emerged without requiring specific endorsement by the international community. In this instance, the standard approach of commentators is best summed up in the formulation that: "Social protection is a human right, enshrined in multiple sources of international law."[25] In other words, no claims are needed for novelty, nor is it necessary to argue that the whole is more than the sum of the parts. The right to social protection is thus no more than a combination of the right to social security and the right to an adequate standard of living. Nevertheless, the packaging of those two rights into a single concept is important, both because it highlights the synergy between them and facilitates the development of a package of measures to achieve their shared objectives.

Indivisibility

35. The second important point of linkage is that social protection as a human right is thus an integral part of the overall package of human rights that includes civil and political rights, the effective exercise of which is also going to be crucial to achieving the right to social protection.

Congruence with the International Covenant on Economic, Social and Cultural Rights

36. Another dimension which is of considerable importance, especially in making the case to those who are involved in implementing and monitoring the International Covenant on Economic, Social and Cultural Rights, is the extent to which the approach embodied in the Social Protection Floor Initiative mirrors that adopted in relation to the Covenant. Four examples will suffice: first, progressive realization is the standard set in the Covenant and is also the approach adopted by the proponents of the Initiative. As one proponent of the latter has noted "the case for universalism needs to be framed in ways that do not set up false dichotomies or unrealistic expectations."[26]

37. Second, the means by which economic and social rights are to be realized needs to be highly sensitive to national specificities: just as proponents of the Covenant have recognized that dimension, so too is the Initiative built upon

[25] Olivier de Schutter and Magdalena Sepúlveda, "Underwriting the poor: a global fund for social protection", briefing note (October 2012).

[26] Naila Kabeer, "The politics and practicalities of universalism: towards a citizen-centred perspective on social protection", *European Journal of Development Research*, vol. 26 (July 2014).

assumptions of national ownership. By the same token, there have been compelling arguments made for the need to pay much more attention in future to local or indigenous mutual support systems and institutions in the area of social protection.[13]

38. Third, the Initiative, as reflected in ILO recommendation No. 202 closely mirrors the view expressed by the Committee on Economic, Social and Cultural Rights in its general comment No. 3 (1990) on the nature of States parties' obligations that "a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party." While the minimum core concept has been developed primarily at the national level in the context of judicial approaches, the original intention of the Committee was that a minimum core would be set at the national level by the political authorities and its adequacy would subsequently be subjected to political contestation through the exercise of civil and political rights by those affected.

39. Finally, much has been made in the context of the Covenant of the importance of establishing benchmarks against which governmental performance can be evaluated. As the United Nations Development Group has observed, the immediate realization of a social protection floor is not a realistic policy goal for most countries in the region, but progress can be achieved through "setting a benchmark for the benefit levels. The benchmark may be taken as the national poverty line for tax-financed, universal schemes and relative benchmarks as laid out in the ILO's social security Conventions."[24]

Legal recognition

40. Just as human rights require recognition by law, so too has the Social Protection Floor Initiative emphasized the importance of entrenching the social protection right in national laws and regulations.[27] That dimension has been well captured by the United Nations Development Group:

> Obligations and entitlements to social protection benefits should be specified in a precise manner, so as to clearly delineate the rights and duties of residents and contributors. To ensure the predictability and sustainability of social protection provisions, laws and regulations should be designed and enforced to support all social protection schemes and services.[24]

41. In the same section of the report, the Group laments the fact that "in many countries ... social protection benefits have been provided for several years without having a legal basis."[24]

C. Affordability

42. Social security and social protection have long been dismissed as unaffordable aspirations, particularly in low-income countries. One of the major contributions of the Initiative is that it has addressed in extensive detail the ways in which all countries can potentially afford to put such a programme in place. The most recent and extensive treatment of this issue is contained in the ILO *World Social Protection*

[27] See Gerard W. Boychuk, "Social protection guarantees as legal rights? The International Labour Organization, the United States and the American 'national context'", *Global Social Policy*, published online 6 June 2014.

Report 2014/15 and it is not proposed to repeat or challenge that analysis here.[28] It must suffice to say that affordability is certainly crucial to the prospects of success of the Initiative and that the lengths to which its proponents have gone to demonstrate that dimension is impressive.

43. Proponents of the Initiative have also attached great weight to instrumentalist arguments that suggest a compelling economic pay-off from social protection. The United Nations Development Group, for example, has argued that social protection "is essentially an investment in human capital, which will contribute to greater labour productivity and pro-poor economic growth in the long run"[24] and in the *Human Development Report 2014* the authors have noted that "by providing an additional and predictable layer of support, social protection programmes help households avoid selling off assets, taking children out of school or postponing necessary medical care, all detrimental to their long term well-being."

44. However, the relationship between instrumentalist arguments of that sort and normative arguments that invoke treaty obligations is a matter of contention in the human rights literature.[29] Human rights purists are reluctant to have much to do with instrumentalist arguments which seek to demonstrate that a pro-human rights policy can bring a pay-off, whether in terms of productivity, efficiency, or even social cohesion. The understandable fear is that in the absence of proof that there will be a pay-off, it might then seem justified and legitimate to reject the rights approach. If such a calculus is unacceptable in relation to torture, why should it be entertained in relation to the right to social protection? However, it is also important to acknowledge that instrumentalist arguments are almost always present, whether the debate is over torture, privacy, freedom of assembly, or the right to food. Politicians and the general public cannot be relied upon simply to do the right thing regardless of perceived costs and benefits and so it is entirely appropriate to reinforce moral or normative positions by arguing that they can also bring pay-offs in other respects. It is as well to remember that the classic arguments on behalf of social security invoked in radically different contexts by Bismarck, Franklin Roosevelt and Beveridge all had ulterior motives of one kind or another.[26]

D. Post-2015 development agenda

45. For the past several years, the international community has been heavily focused on, and invested in, the process of drafting development goals for the post-2015 development agenda. On 19 July 2014, the Open Working Group on Sustainable Development Goals released its proposals. For all the immense time and energy expended by proponents of both human rights and the Social Protection

[28] For additional scholarly analyses see Jessica Hagen-Zanker and Anna McCord, "The affordability of social protection in the light of international spending commitments", *Development Policy Review*, vol. 31, No. 4 (July 2013); Mukul G. Asher and Azad S. Bali, "Financing social protection in developing Asia: issues and options", *Journal of Southeast Asian Economies*, vol. 31, No. 1 (April 2014); and Elliott Harris, "Financing social protection floors: considerations of fiscal space", *International Social Security Review*, vol. 66, No. 3-4 (July-December 2013).

[29] See, for example, Malcolm Langford, "Social security and children: testing the boundaries of human rights and economics", in *Freedom from Poverty as a Human Right: Economic Perspectives*, Stephen Marks, Bård Anders Andrassen and Arjun Sengupta, eds. (Paris, UNESCO Publishing, 2009).

Floor Initiative, the results to date are stunningly meagre. Human rights as such have been thoroughly marginalized. There is a token nod in their direction in paragraph 7 of the draft outcome document of the Open Working Group, although rather than underlining their relevance to development, the paragraph merely records the fact that in the outcome document of the United Nations Conference on Sustainable Development, "The future we want", adopted by the General Assembly in resolution 66/288, "the importance of freedom, peace and security, respect for all human rights, including the right to development and the right to an adequate standard of living, including the right to food and water, the rule of law, good governance, gender equality, women's empowerment and the overall commitment to just and democratic societies for development" were reaffirmed, as was the importance of the Universal Declaration of Human Rights. There is only one other reference to human rights in the entire 21-page draft and that appears in the context of a list of issues to which "quality education" should be devoted.

46. Human rights proponents seeking to defend the draft might argue that issues such as non-discrimination and equality are reflected in it and that specific goals such as making "free, equitable and quality" education available to all and achieving "universal and equitable access to safe and affordable drinking water for all" can act as surrogates for the recognition of the respective rights. As argued above, however, recognition of rights empowers all individuals, imposes real obligations on Governments and brings with it an agreed framework for implementation.

47. Poverty eradication, by contrast, is an important focus. The draft proclaims that: "Poverty eradication is the greatest global challenge facing the world today" and accordingly Goal 1 is "to end poverty in all its forms everywhere." The specifics that follow, however, leave much to be desired. Proponents of the Social Protection Floor Initiative can take some consolation from the fact that social protection is mentioned three times. It is identified as a means by which to recognize and value unpaid care and domestic work (target 5.4) and is proposed as a means of promoting greater equality, along with fiscal and wage policies (target 10.4). The main provision of relevance calls upon States to "implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable" (target 1.3). That is a mixed bag. The fact that the social protection measures called for are "for all" implies universality and the fact that "floors" are listed as one means by which this might be achieved is a nod in the direction of the Initiative. However, the draft clearly avoids giving any specific endorsement to the Initiative and says nothing about minimum guarantees, legal entrenchment or rights and the goal set to be achieved over a period of 15 years is determinedly vague and open-ended. In short, it is far more consistent with the social safety net philosophy than with the social inclusion and rights-based approach of the Initiative.

48. This reading is reinforced by the fact that the earlier provisions of Goal 1 seek to resolve the competition between the two ways of measuring poverty by endorsing both, but in very different terms. Target 1.1 follows the World Bank by calling for the eradication, by 2030, of "extreme poverty for all people everywhere, currently measured as people living on less than $1.25 a day". Given that this is a very low standard, the aspiration is a limited one. But when it comes to "men, women and children of all ages living in poverty in all its dimensions according to national definitions", the aim in target 1.2 is only to "reduce at least by half the proportion" by 2030. In other words, that target implies acceptance that as many as half of those

currently living in extreme poverty, as measured by the multidimensional approach described above, will continue to do so beyond 2030. For a planet with immense wealth and one that is able to mobilize vast resources very rapidly for projects that further the interests of the elites, that is a shameful goal and one that is clearly inconsistent with the recognition that all persons are entitled to at least the minimum core of economic and social rights.

49. Finally, the draft omits earlier proposals to establish regular monitoring and reporting arrangements to assess the progress on meeting the sustainable development goals. Target 16.6, which calls for the development of "effective, accountable and transparent institutions at all levels" is a poor substitute for tangible accountability commitments.

IV. Conclusion

50. **Future advocacy for social protection floors needs to acknowledge the lessons that are to be learned from past experience. First, the reality is that in many states the political will to eliminate poverty is lacking and, in the absence of a major change in priorities, the situation will at best improve only incrementally. Far from being a tragedy about which nothing can be done because of financial constraints, the persistence of extreme poverty is the result of a series of deliberate and conscious decisions by key actors who have chosen to prioritize other goals. Those living in poverty have been largely disempowered and their economic position reflects their political marginality. Extreme poverty remains a scourge which the international community has lamented at great length and with a collective gnashing of teeth, but that same community has all too often refused to take the measures required to eliminate the problem. Embracing the Social Protection Floor Initiative would constitute a compelling change of course and mark a genuinely new beginning in the struggle against extreme poverty.**

51. **Second, an indispensable step is to insist on explicit recognition by key actors that there is a human right to social protection. At present, the right to social security and the right to an adequate standard of living, proclaimed so proudly in the Universal Declaration of Human Rights and subsequently often reaffirmed in binding treaty obligations, are ignored or even challenged by the policies advocated by many of the key actors involved in addressing the plight of the hundreds of millions of persons living in extreme poverty. Many leading international organizations and financial institutions still avoid recognizing those rights in their policies and programmes.**

52. **Third, technocratic solutions, no matter how innovative and data-driven, will not work unless they are genuinely empowering of those whom they purport to help.**[30] **In that regard, extreme poverty is a classic case study in the centrality of human dignity as a guiding principle of human rights. The poor,**

[30] "Much of the existing literature on the SPF, largely emanating from international organizations, is apolitical and technocratic, and ignores the vital role played by party politics and ideology and by mechanisms of political conditionality/clientelism in the provision of social programs." Lucy Luccisano and Laura Macdonald, "Mexico and social provision by the Federal Government and the Federal District: obstacles and openings to a social protection floor", *Global Social Policy*, published online 4 July 2014.

we have too often been told by our politicians and others, are usually to blame for their own plight, whether because of laziness, incompetence, mendacity, or whatever. Those unjustified stereotypes provide yet another justification for preferring technocratic approaches through which we measure the poor and work out how we are going to make minimal provision for them, at least in the long term. As Keynes reminded us, in the long term we are all dead. Those living in extreme poverty will be dead even more quickly, so that long-term solutions may be little more than an illusion. Short-term empowerment and respect are what is needed. We need to reassert a common humanity, shared responsibilities and the centrality of human dignity.

V. Recommendations

A. Mobilization to promote social protection floors

53. **International civil society groups should mobilize effectively and in coalition with groups in other sectors to advocate and promote the Social Protection Floor Initiative. While the Center for Economic and Social Rights joined with a range of other groups, including Amnesty International, to call for a commitment to social protection floors in the sustainable development goals,[31] the great majority of international human rights groups have said little and done less on the issue. It is essential to acknowledge that extreme poverty, which continues to afflict hundreds of millions of people, is a negation of all human rights. International civil society groups in the human rights field fight valiantly to eliminate torture, to reduce and expose extrajudicial executions, to reduce violence against women, to outlaw discrimination and the oppression of minorities and so on, but if the elimination of extreme poverty is not a central part of the collective human rights vision, it is a highly selective battle that is being fought.**

54. **The situation is made worse by the fact that some of the leading international human rights non-governmental organizations insist that resource distribution is a matter they cannot address. That position makes meaningful action to eliminate extreme poverty almost impossible and thus largely entrenches the status quo. Policies premised on the assumption that effective poverty elimination strategies need not involve resource redistribution are at odds with empirical realities.**

55. **The leading human rights groups should thus engage actively with the Coalition for a Social Protection Floor,[32] as well as taking their own targeted initiatives.**

56. **Advocacy at the national level is also essential. If a lowest common denominator approach continues to prevail at the international level, civil society actors and others need to concentrate their efforts more at the national**

[31] Center for Economic and Social Rights and others, "OWG inches closer to human rights for all post-2015, but still a long road ahead", joint statement, 30 April 2014, available from http://cesr.org/article.php?id=1582.

[32] See generally Wouter van Ginneken, "Civil society and the social protection floor", *International Social Security Review*, vol. 66, No. 3-4 (July-December 2013).

level. That means advocacy in relation both to national social protection policies and to national policy vis-à-vis the international agenda in the field.

57. **In particular, civil society should engage actively in debates over affordability at the national level. In that context, it is pertinent to recall the highly relevant report by the previous Special Rapporteur on the key role played by fiscal and related policies at the national level in terms of generating the resources necessary for poverty reduction and the realization of human rights (A/HRC/26/28).**[33]

B. World Bank

58. **The role of the World Bank in relation to the Social Protection Floor Initiative is crucial. Based on policies pursued to date, it is the single actor most likely to undermine and frustrate the overall Initiative. Unless there is a change of heart on its part, the development community will continue to be pushed to focus on ill-defined social safety nets aimed at a limited number of the extreme poor and as a matter of bureaucratically defined and designed welfare policy, rather than as a matter of human rights. It is therefore indispensable that the human rights community should shine a spotlight on the policies and practices of the Bank in this area and the Human Rights Council should call upon it to embrace the Initiative in all its dimensions.**

C. Sustainable development goals

59. **In the realms of human rights and the Initiative, the current draft of the post-2015 agenda is a considerable disappointment. The almost complete omission of substantive references to human rights in the draft is a throwback to the United Nations development decade strategies of the 1960s and 1970s. However, they were drafted at a time when the human rights framework was in its infancy and development was seen largely as a technocratic process.**[34] **Similarly, the very low standards set in relation to social protection are inconsistent with the high-flown rhetoric of ending poverty in all its forms everywhere. As it stands, the first goal proposed by the Open Working Group on Sustainable Development Goals might be considered to be in violation of deceptive advertising laws designed to protect consumers.**

60. **It is understandable that some of those who have expended great energy on the post-2015 process should consider that only a token reference to human rights and a weak endorsement of social protection are better than nothing and that they will somehow be able over time to put a positive gloss on determinedly lacklustre goals. This is surely not enough. Civil society groups should make clear that a 1960s approach is no longer acceptable in the twenty-first century. Human rights in general should be recognized as both a central goal of sustainable development and a crucial part of the relevant process and a**

[33] See also Center for Economic and Social Rights and Christian Aid, "A post-2015 fiscal revolution: human rights policy brief" (2014).

[34] See William Easterly, *The Tyranny of Experts: Economists, Dictators and the Forgotten Rights of the Poor* (New York, Basic Books, 2014).

specific right to social protection, as defined in the Social Protection Floor Initiative and ILO recommendation No. 202, should be recognized.

D. Committee on Economic, Social and Cultural Rights and the special procedures mandate holders

61. **One of the most prominent proponents of social protection floors and a principal drafter of ILO recommendation No. 202 has called for the drafting of a "United Nations convention on national floors for social protection," on the grounds that this would "create a much more durable instrument than development goals that have to be revised every few decades".[35] While appealing on the face of it, the proposal will certainly fall foul of the clearly demonstrated leeriness of States about creating new human rights treaties. More importantly, it takes insufficient account of the role currently and potentially played by the International Covenant on Economic, Social and Cultural Rights and the treaty body monitoring its implementation.[36] An alternative therefore would be to propose the drafting of an optional protocol to the Covenant. However, aside from the cost and time involved in such an initiative, there is a strong general argument that new instruments should not risk making optional what is already mandatory — in this case the right to social protection under the Covenant.**

62. **Many of the benefits of a new convention or protocol could be achieved immediately through appropriate action on the part of the Committee on Economic, Social and Cultural Rights. It has already made an important contribution through its adoption in of general comment No. 19 (2007) on the right to social security. The content and assumptions of that general comment are entirely compatible with the Social Protection Floor Initiative, but it was adopted long before the concept of social protection floors was taken up at the international level. Thus, it does not build on the concept of social protection as such, does not use the terminology of "floors" and of course makes no reference to ILO recommendation No. 202 or other important recent developments. The Committee should give careful consideration to adopting an approach which would give much greater prominence in its work to the right to social protection. This should involve much more than just a formal statement and should include the adaptation of its methods of work so that one of its principal focuses is on the steps taken at the national level by each State party to the Covenant to establish a social protection floor. The Committee could also set up a working group to monitor progress in relation to social protection floors and to facilitate a more interactive and participatory process to enable it to make a major contribution to the international campaign to establish universal social protection.**

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[35] Michael Cichon, "The social protection floors recommendation, 2012 (No. 202): can a six-page document change the course of social history?" *International Social Security Review*, vol. 66, No. 3-4 (July-December 2013).

[36] Cichon's downplaying of the potential of the Covenant is presumably linked to his view that "ILO standards in social security … are the only existing — albeit soft — instruments of global social governance …". Ibid.

63. **The Social Protection Floor Initiative should also be a focus of attention for many of the special procedures mandate holders dealing with relevant issues. The initiative is of particular importance for those concerned with the rights of children, women, persons with disabilities, older persons and others.**

E. International funding initiatives

64. **International support, especially for low-income countries, seeking to develop social protection floors is essential. In 2012, two special rapporteurs put forward an important proposal for the creation of a global fund for social protection.[25] That is a sophisticated and carefully calibrated proposal, which has garnered significant attention at the international level. It seems clear, however, that further reflection is required in order to ensure that the focus and the proposed modalities of the fund are optimal and acceptable to key actors. The Social Protection Inter-Agency Cooperation Board should consider establishing an expert group to review the proposal and to recommend an initiative designed to achieve the objectives identified.**